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Zennaro and the Cancelled Member Class

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DONNA ZIZIAN, Individually and on
behalf of all other similarly situated
California Residents,

Plaintiff,

v.

MASSAGE ENVY FRANCHISING,
LLC, a Delaware limited liability
company,

Defendant.

Case No. 16-cv-00783-DMS-BGS

CLASS REPRESENTATIVES'
NOTICE OF MOTION AND
MOTION FOR FINAL APPROVAL
OF CLASS ACTION
SETTLEMENT

Date: January 13, 2017
Time: 1:30 p.m.
Crtrm: 13A
Judge: Hon. Dana M. Sabraw

[Caption continues on next page.]

1 MICHELE BANDELL, DAVID
2 EIGLARSH, CHARLENE PANOS,
3 JEANETTE RAWLS, JENNIFER
4 WALKER, and ALEX ZENNARO,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

6 MASSAGE ENVY FRANCHISING,
7 LLC, a Delaware Limited Liability
8 Company,

Defendant.

Case No. 16-cv-01236-DMS-BGS

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on January 13, 2017, at 1:30 p.m., in Courtroom 13A of the above-titled Court located at 333 West Broadway, San Diego, California, the Honorable Dana M. Sabraw presiding, Class Representative Donna Zizian in the matter entitled *Donna Zizian, Individually and on behalf of all other similarly situated California Residents v. Massage Envy Franchising, LLC*, Case No. 3:16-cv-00783-DMS-BGS and Class Representatives Michele Bandell, David Eiglarsh, Charlene Panos, Jeannette Rawls, Jennifer Walker, and Alex Zennaro in the matter entitled *Michelle Bandell, David Eiglarsh, Charlene Panos, Jeanette Rawls, Jennifer Walker and Alex Zennaro, individually and on behalf of all others similarly situated v. Massage Envy Franchising, LLC, a Delaware Limited Liability Company*, Case No. 3:16-cv-01236-DMS-BGS, which have been consolidated solely for purposes of settlement, will and hereby do move the Court, pursuant to Federal Rule of Civil Procedure 23, for an Order:

- a) Granting final approval of the terms and conditions set forth in the Class Action Settlement and Release (“Settlement”¹) entered into between the Parties and preliminarily approved on July 1, 2016 [Dkt. 21];
- b) Certifying the Settlement Class, as defined in Court’s Order Granting Preliminary Approval of Class Settlement [Dkt. 21], for settlement purposes only pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3);
- c) Finding that the Class Notice Program was adequate and reasonable, has met the requirements of Rule 23, due process, and all other applicable laws, and has constituted the best notice practicable under the circumstances; and
- d) Overruling the six objections to the Settlement.

¹ The capitalized terms used in this Notice of Motion and Motion, if not defined herein, shall have the meanings and/or definitions given to them in the Class Action Settlement And Release [Dkt. 17-3] (“Agreement”).

1 This Motion is based on this Notice of Motion and Motion; the
2 accompanying Memorandum of Points and Authorities; the Agreement,
3 including all exhibits thereto; the accompanying Declarations filed concurrently
4 herewith of Brett M. Weaver, Joshua H. Eggatz, Melanie Hansen, and Lori
5 Castaneda; the argument of counsel; all papers and records on file in the
6 Actions; and such other matters as the Court may consider.

7 Respectfully submitted,

8 Dated: December 2, 2016

JOHNSON & WEAVER, LLP

9
10 By: *s/ Brett M. Weaver*

BRETT M. WEAVER

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Attorneys for Class Representative
Donna Zizian and the proposed Active Member
Class

18 Dated: December 2, 2016

EGGNATZ, LOPATIN & PASCUCCI, LLP

19 By: *s/ Joshua H. Eggatz*

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Attorneys for Class Representatives Michele
Bandell, David Eiglarsh, Charlene Panos,
Jeannette Rawls, Jennifer Walker, and Alex
Zennaro and the proposed Cancelled Member
Class

1 *Filer's Attestation: Pursuant to Section 2.f.4 of the ECF Administrative*
2 *Policies and Procedures Manual for the Southern District of California, Brett M.*
3 *Weaver hereby attests that concurrence in the filing of this document has been*
4 *obtained.*

PROOF OF SERVICE

I am employed in the County of San Diego. I am over the age of eighteen years and am not a party to the within entitled action. My business address is 600 West Broadway, Suite 1540, San Diego, CA 92101.

On December 2, 2016, I served a copy of the following document:

- 1) **CLASS REPRESENTATIVES' NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT;**
- 2) **CLASS REPRESENTATIVES' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT;**
- 3) **DECLARATION OF LORI L. CASTANEDA REGARDING NOTICE DISSEMINATION AND SETTLEMENT ADMINISTRATION;**
- 4) **DECLARATION OF MELANIE HANSEN IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT;**
- 5) **DECLARATION IN SUPPORT OF MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT; and**
- 6) **DECLARATION OF BRETT M. WEAVER IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT.**

☒ [BY ELECTRONIC ACCESS] I hereby certify that the foregoing documents were filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all parties on the electronic service list maintained for this case.

I declare under penalty of perjury under the law of the United States of America that the foregoing is true and correct.

Executed on December 2, 2016, at San Diego, California.

Bv: s/ Brett M. Weaver
BRETT M. WEAVER